

REMARKS

This responds to the Office Action mailed on April 19, 2007.

Claims 95-119 are pending in this application. No claims are being amended with this response.

§103 Rejection of the Claims

Claims 95-105 and 107-118 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Feedback Forum (eBay.com, November 10, 1999 via web.archive.org) in view of Fuerst (U.S. 6,189,029). To combine references there must be some common sense reason articulated to combine the references in the first instance.

Here, the Fuerst reference is a survey tool and is used for exclusively evaluating products of an enterprise. There is no “feedback” about a user in any sense. The Examiner has articulated that the customer service workgroup of Fuerst may be viewed as a seller and the customer a buyer and recited in support of this notion column 2 lines 63-67. But even assuming this is the case, that reference recites that “customer feedback” is sought for “current products” and not about the customer service workgroup. In other words, the survey supplying feedback is about products and not users as the Examiner appears to have asserted.

In fact, the entire scope and teaching of Fuerst is to develop, distribute, and evaluate surveys about products. There is no suggestion at all that feedback about a user is supplied. This is entirely outside the scope of Fuerst. As such, Applicant continues to maintain that the Fuerst reference cannot logically be combined with the Feedback Forum reference and in so doing it actually defies common sense. That is, one of ordinary skill in the art applying common sense after reading Fuerst and its discussion about surveys for products would not relate this in any manner to the Feedback Forum reference.

Applicant asserts that this proposed combination can only be achieved via improper hindsight after reading Applicant’s invention. Moreover, Hindsight is improper.

Moreover, the surveys in Fuerst are created about topics not about other users and are sent to users without those users requesting those surveys in the first instance. See column 1

lines 56-62 and column 10 lines 22-40. So, surveys are pushed to users and not requested by users.

Furthermore, Applicant believes that the Fuerst reference actually teach away from Applicant's claimed invention, and as such buttresses Applicant's contention that combining Fuerst with any reference to render Applicant's invention obvious defies a common sense approach. Specifically, Fuerst wants to obtain survey results about products from customers and customizes and sends a series of questions to customers without being prompted by the customers. Applicant's invention desires to get feedback on participants in an online transaction done at the specific request of one of the participants. Applicant's invention is about online reputation of a virtual community and Fuerst is an automated approach to obtaining survey information about traditional products in the marketplace.

Additionally, the user who is the subject of a feedback comment also leaves a response comment in the independent claims. This is not shown in either of the references at all. Consequently, the proposed combination even if proper lacks each and every limitation of Applicant's independent claim limitations.

Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections and allow the pending claims of record.

Claims 106 and 119 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Feedback Forum in view of Fuerst and further in view of Bayer et al. (U.S. 6,311,190). Claims 106 and 119 are dependent from independent claims; thus, for the remarks presented above with respect to claims 102 and 114 (the independent claims), the rejections of claims 106 and 119 should be withdrawn. Applicant respectfully requests an indication of the same.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE

Serial Number: 09/740,502

Filing Date: December 19, 2000

Title: METHOD AND APPARATUS FOR PROVIDING PREDEFINED FEEDBACK

Page 5
Dkt: 2043.012US1

Respectfully submitted,

BARRY BOONE

By his Representatives,

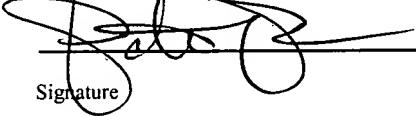
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 5 day of July 2007.

Peter Rutherford
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Signature